IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1295 OF 1996.

Shri Sudhakar chintaman Jumale : Appellant.

versus

Janba Ganesh Patil & ors. : Respondents.

Mr.R.M.Agarwal for the appellant.

Mr.D.R.Mahadik i/by S.R.Singh for the respondents

CORAM : D.G.DESHPANDE,J.

DATED : 28th APRIL 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent No.3. Nobody is appeared for the respondent Nos. 1 and 2. This appeal is filed by the original claimant against dismissal of his claim petition by the Motor Accident Claims Tribunal, Kolhapur by order dated 8th December 1994. The claimant had suffered certain injuries in the accident. He adduced evidence of himself

to prove that the truck driver was negligent. As against this, the truck driver was also examined. A loona on which the claimant was riding dashed against the truck. This dash was on the rear side of the truck. The claimant did not care to produce the panchanama at all, which would have thrown light upon the point of impact between the truck and loona. Therefore, there is oath against oath and in these circumstances, looking to the nature of accident the tribunal found that the explanation given by the truck driver was logical and plausible and, therefore, dismissed the claim petition.

2. I do not find any perversity in the findings of the tribunal. The conduct of the driver in immediately lodging the report to the police and taking the victim to the hospital rightly weight by the trial Court as against not filing any complaint to the police at any time before filing the claim petition. In view of this matter, no interference is called for. Appeal is dismissed. No order as to costs.

[D.G.DESHPANDE]

28/04/2005 JUDGE.